

Notice of Allowability	Application No.	Applicant(s)	
	10/697,035	JIKUTANI ET AL.	
	Examiner	Art Unit	
	James A. Menefee	2828	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to RCE filed 1/4/2007.
2. The allowed claim(s) is/are 63,64,66-69,71-75,77 and 78.
3. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some* c) None of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application
6. Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/4/2007 has been entered. Claims 63, 68, and 74 are amended. Claims 1-62, 65, 70, 76, and 79-125 were previously cancelled. Claims 63-64, 66-69, 71-75, and 77-78 are pending.

Applicant's arguments filed 1/4/2007 have been fully considered and are persuasive. All claims are now allowed.

Allowable Subject Matter

Claims 63-64, 66-69, 71-75, and 77-78 are allowed. The following is an examiner's statement of reasons for allowance:

There is not taught or disclosed in the prior art a semiconductor DBR comprising a stacked structure of first and second regions, the first region being hit by an incoming optical beam (claim 63) or being located closer to the active layer (claims 68,74), where each region comprises an alternate stacking of semiconductor layers having different refractive indices and a plurality of intermediate layers each sandwiched between the first and second semiconductor layers and having a refractive index between that of the first and second layers, the intermediate layer of the first region having a thickness larger than that of the second region. Note this DBR is

claimed alone in independent claim 63, and claimed in a surface emitting laser and a surface emitting laser of a laser array in independent claims 68 and 74, respectively.

Thus the claims differ from Villareal (US 6,850,548), the previously cited closest prior art. The examiner substantially agrees with applicant's description of the difference in the 1/4/2007 response at pages 10-11. Villareal's intermediate layer alternates between thinner and thicker, thus there is no first and second region having a *plurality* of intermediate layers thicker/thinner than that of the other region; each separate region appears to have only one such intermediate layer, alternating with another region also having one such intermediate layer. See the picture shown in applicant's response p. 11, which the examiner agrees is substantially accurate.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Menefee whose telephone number is (571) 272-1944. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MinSun Harvey can be reached on (571) 272-1835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JAMES MENEFEE
PRIMARY EXAMINER

James Menefee
Primary Examiner
February 15, 2007